



WEB COPY



W.P.No.24918 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24918 of 2013

R.Gunasekaran

...Petitioner

-Vs-

1. Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
Rep. by its Managing Director,
Railway Station Road,
Kumbakonam.
2. The General Manager,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Railway Station Road,
Kumbakonam -1.
3. The Administrator,
Tamilnadu State Transport Corporation
Employees Pension Trust,
Pallavan Salai,
Chennai-2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the action of the respondents in denying the petitioner pension on the ground he did not complete 50 years of age as on date of the petitioner voluntary retirement



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as illegal and consequently direct the respondents to pay the petitioner monthly pension w.e.f. 06.05.2004 with arrears and all other consequential benefits, together with interest at the rate of 9% per annum from the date of due to the date of actual payment, award costs.

For Petitioner : Mr.V.Ajoy Khose
For Respondents
For R1 & R2 : Mr.C.Senapathi
Standing Counsel
For R3 : Mr.C.S.K.Sathish

ORDER

The writ petition has been filed to declare the action of the respondents in denying the petitioner's pension on the ground that he did not complete 50 years of age as on date of the petitioner voluntary retirement.

2. The petitioner had joined in the service of the first respondent as Conductor, on 05.05.1978 and he was enrolled as a member to the Provident Fund. Thereafter his service was regularized and he brought to time scale of pay on completion of 240 days of service. He was also granted selection grade on 01.08.1985 and special grade in the year 1994. Further he had applied for voluntary retirement on his health ground. He satisfied other conditions stipulated for voluntary retirement



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as such his application was accepted and he was allowed to go on voluntary retirement scheme on 05.05.2004. However, he was not sanctioned pension and therefore, he submitted representation to the respondent. His request was rejected by the communication dated 12.09.2008 on the ground that though he completed 25 years of service, on the date of voluntary retirement, he did not complete the age of 50 and therefore his case was not considered for pension. Hence, the petitioner filed the present writ petition with the above said prayer.

3. Heard the learned counsel appearing on either side and perused the material placed before this Court.

4. The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court of India dated **08.05.2013** made in the case of ***M.D., TNSSTC (Madurai) Ltd., Vs. M.Natarajan & Anr*** in Special Leave Appeal (Civil) **No.16446 of 2013**, which held that it was not open to the officers of the corporation to deny the pension and other retiral benefits. If the concerned authority felt that on account of his age the person was not entitled to seek voluntary retirement, then there



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was no occasion for that authority to pass an order of voluntary retirement. Once, the application for voluntary retirement was accepted, the corporation and its officers were estopped from questioning the entitlement of the person to receive the pensionary benefits. The Hon'ble Supreme Court of India also imposed cost in that case.

5. The above judgment is squarely applicable to the case on hand. Admittedly, the petitioner was allowed to retire on voluntary retirement scheme on 05.05.2004. On the date of retirement, he aged about only 47 years and he was completed 25 years of service. His request was considered on the ground of illness. Thereafter, he was denied pension on the ground that he was not completed the age of 50 years at the time of retirement. Therefore, the action of the respondent denying the pension to the petitioner is null and void and the petitioner is entitled for pension.

6. However, the petitioner failed to challenge the order of rejection and after the period of five years, filed the present writ petition for declaration, declaring that the action of the respondent is illegal.



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Hence, the petitioner is not entitled for any interest for the delayed pension. The respondents are directed to pay pension and arrears of pension and other benefits if any, within a period of twelve weeks from the date of receipt of a copy of this Order. It is made clear that the petitioner is entitled for interest at the rate of 6% per annum, from the date of filing of the present writ petition viz., 03.09.2013 till the disbursement of the arrears.

7. With the above directions, this Writ Petition is disposed of.

There shall be no order as to cost.

25.09.2023
(2/3)

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Managing Director,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
Railway Station Road,
Kumbakonam.
2. The General Manager,
Tamilnadu State Transport
Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
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